

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 03/29/2012

POSITION: Oppose

SPONSOR: Community College League of California

BILL NUMBER: AB 2655

AUTHOR: Swanson, Sandre

BILL SUMMARY: Community colleges: inmate education programs: computation of apportionments.

This bill would make several changes to existing law governing the funding of community college inmate education programs, including:

- Expanding the waiver of open course provisions to include any instruction provided by community colleges to inmates in state correctional facilities. Current law requires that community college courses be open to the public in order to be eligible for state funding; however, the requirement is currently waived for community college instruction provided to inmates in city, county, or federal facilities.
- Allowing community colleges to claim the credit funding rate for credit instruction provided to inmates in city, county, federal and state correctional facilities. Current law allows only the noncredit rate to be claimed for noncredit or credit instruction provided to inmates in city, county, or federal facilities.
- Authorizing colleges to claim state apportionment funding for the incremental shortfall in direct funding reimbursed by external public or private agencies, entities or individuals who contract with colleges for provision of instructional services.

FISCAL SUMMARY

This bill would result in increased costs of more than \$2 million Proposition 98 General Fund for credit instruction provided to inmates in correctional facilities based on recent historical levels of credit full-time equivalent students (FTES) in correctional facilities.

Furthermore, language in this bill allowing colleges to charge the state for shortfalls in reimbursements under contract education would discourage colleges from negotiating full reimbursement from contracting agencies, essentially supplanting non-state programs with state funding.

This bill would allow the state to reduce funding provided to the Department of Corrections and Rehabilitation (CDCR) for inmate education programs in areas of the state where community colleges are willing to provide the education and generate credit apportionment funding. In those situations community colleges' Proposition 98 funding would replace funds currently provided to the CDCR to operate these programs.

COMMENTS

The Department of Finance opposes this bill for the following reasons:

- This bill would result in additional marginal costs to the state of at least \$2 million Proposition 98 General Fund in the short-term that would probably grow significantly due to the funding incentives that allow the credit funding rate to be claimed for instruction provided in correctional settings. Since

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Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
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COMMENTS (continued)

the credit funding rate is \$1,820 higher than the noncredit rate, California community colleges would be encouraged to not only expand credit course offerings, but in some cases reclassify current programs to credit status with little to no change in the course.

- This bill does not provide sufficient safeguards against colleges receiving multiple funding for instruction provided to inmates via contracts, instructional agreements, and noncredit and credit apportionment funding. Further, it reduces the incentive for colleges to negotiate full reimbursement for contract services. By allowing colleges to claim state funding where contract reimbursement rates do not cover all costs of the service, the state could be supplanting local and/or private funding for those contract instruction programs, including training in local jails and training for local businesses.
- The credit rate provided for inmate education would likely exceed the true costs to community colleges for offering the programs in a correctional setting, given that the vast majority of current instruction delivered to inmates is done through distance education, and given the community college funding formula's incorporation of fixed maintenance/operations and student services costs. These services would not be provided by the colleges in a correctional setting.
- This bill would further exacerbate the community colleges' ability to provide course offerings to traditional students at a time when they are already exceeding capacity and are implementing budget reductions that prioritize transfer, basic skills, and career and vocational coursework for existing students.

ANALYSIS

1. Programmatic Analysis

Current law allows community colleges to provide remedial and vocational instruction to inmates incarcerated in various city, county and federal correctional facilities. Colleges that provided this instruction as of the 1994-95 fiscal year are allowed to generate and claim noncredit FTES for apportionment funding for each year thereafter.

This bill would allow any community college district, regardless of any year in which they last provided inmate education, to generate and claim credit FTES apportionment funding (current law only allows the noncredit rate to be claimed) for credit instruction provided to inmates in city, county, federal, and state facilities (state facilities are not authorized under current law), provided that the following conditions are met:

1. The district does not receive full compensation for the costs of instruction from another public or private source.
2. The district does not have an instructional agreement or contract to provide such instruction to a correctional facility where the full costs of instruction are compensated.

Despite these requirements, this bill would allow colleges to report FTES generated in these courses for apportionment so long as the districts report any partial compensation received from any public or private agency and any contract or instructional agreement. We note that this provision has the potential to be abused or improperly reported, thus allowing some districts to receive multiple forms of compensation for instruction provided to the same group of inmate students. This also removes the incentive for colleges to negotiate contracts that cover the full costs of contract training.

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ANALYSIS (continued)

Further, the allowance of credit FTES to be claimed raises serious concerns regarding the rigor of such courses. Specifically, the incentive to earn more than \$1,820 more per FTES for credit instruction (rather than noncredit) may cause districts to reclassify some existing noncredit courses as credit, without a sufficient pedagogical basis. We also question the fiscal policy rationale for allowing community colleges to claim additional enrollment for state inmate education programs when approximately \$102 million is available for 2011-12 for this purpose. Additionally, allowing the community college districts to claim credit funding for credit instruction in other city, county, and federal facilities may further diminish the responsibility of those entities to provide appropriate services to inmates in those facilities.

Historical Reference

AB 216 (Swanson, 2011) was identical to this bill and was held in the Senate Appropriations Committee. Finance opposed AB 216 for the same reasons noted above.

AB 1702 (Swanson, 2010) was identical to this bill and was held in the Senate Appropriations Committee. Finance opposed AB 1702 for the same reasons noted above.

SB 574 (Hancock, 2009) and SB 413 (Scott, 2008) were very similar to the current bill. SB 574 was held in the Senate Appropriations Committee and SB 413 was vetoed citing that the creation of inappropriate incentives that would encourage supplanting of prison and jail funding.

2. **Fiscal Analysis**

Allowing credit apportionment to be claimed for credit instruction provided to inmates in correctional facilities would result in increased costs of more \$2 million Proposition 98 General Fund based on current funding rates and the most recent data available on the levels of credit FTES in correctional facilities. Under current law, credit instruction is authorized in city, county, and federal correctional facilities at the noncredit funding rate of \$2,745 per FTES. This bill would authorize community colleges to also offer credit instruction in state correctional facilities, and would allow them to claim the credit rate for the provision of this instruction of \$4,565 per FTES in all correctional facilities. Based on the available data from the Chancellor's Office, 1,135 credit FTES were generated in city, county, federal, and state correctional facilities during 2005-06 academic year. Given the marginal difference in funding rates ($\$4,565 - \$2,745 = \$1,820$) and recent historical credit FTES levels (1,135), this bill would result in additional costs of \$2,066,000 ($\$1,820 \times 1,135$). We would expect this amount to grow significantly under this bill because it would provide an attractive incentive for community colleges to aggressively market courses for inmates.

We note that the credit rate provided for inmate education would exceed the true costs of offering the programs in a correctional setting given the community college funding formula's incorporation of foundation entitlement grants for fixed maintenance/operations and student services costs. Additionally, the vast majority of current credit instruction delivered in correctional facilities is provided via distance education, calling further into question the need for additional per student funding for these courses.

This bill would allow the state to reduce funding provided to the CDCR for inmate education programs in areas of the state where community colleges are willing to provide the education and generate credit apportionment funding. In those situations, community colleges' Proposition 98 funding would replace funds currently provided to the CDCR to operate these programs.

BILL ANALYSIS--(CONTINUED)**Form DF-43****AUTHOR****AMENDMENT DATE****BILL NUMBER**

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Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP					Fund		
	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014	Code
6870/Comm College	LA	Yes	C	2,066	C	2,066	C	2,066	0001